

1 Cam Ferenbach, NV Bar No. 96  
2 cferenbach@lionelsawyer.com  
3 Timothy R. Mulliner, NV Bar No. 10692  
4 tmulliner@lionelsawyer.com  
5 Ketan D. Bhirud, NV Bar No. 10515  
6 kbhirud@lionelsawyer.com  
7 LIONEL SAWYER & COLLINS  
8 1700 Bank of America Plaza  
300 South Fourth Street  
Las Vegas, Nevada 89101  
Telephone: (702) 383-8888  
Facsimile: (702) 383-8845  
*Attorneys for Plaintiff*

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 MULTIBANK 2009-1 RES-ADC  
12 VENTURE, LLC, a Delaware limited liability  
company;

Case No.: 2-10-cv-1396

13 Plaintiff,

14 v.  
15 DAVID A. GARRETSON, an individual; and  
16 KELLY A. MUSLER, an individual;  
17 Defendants.

**JOINT DISCOVERY PLAN**

**(SPECIAL SCHEDULING REVIEW  
REQUESTED)**

18 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure (“FRCP”) and Local Rule  
19 26-1, Multibank 2009-1 RES-ADC Venture, LLC and Defendant Kelly A. Musler, by and  
20 through their respective counsel of record, hereby submit this joint Rule 26(f) Report  
21 (“Discovery Plan”).<sup>1</sup>

22 **I. DISCOVERY PLAN [Rule 26(f)(3)(B)]**

23 Plaintiff caused the real property at issue in this case to be sold at a trustee's sale on

24  
25 <sup>1</sup> As of the date of filing this Joint Discovery Plan, David A. Garretson has not been personally  
26 located for service and has therefore not answered the Complaint. Plaintiff has located the  
27 address of 281 East Ford Avenue, Las Vegas, Nevada, which is believed to be Mr. Garretson's  
28 current home address. However, despite multiple attempts, Plaintiff has been unable to effect  
service upon Mr. Garretson to date. If Plaintiff's current stakeout efforts are also to no avail,  
Plaintiff will filing a motion with the Court to request alternate means of service and additional  
time to do so.

1 November 30, 2010 (after the filing of this lawsuit), the proceeds of which did not satisfy the  
 2 indebtedness allegedly owed to Plaintiff. The claims currently before the court must therefore  
 3 be amended and supplemented to reflect this change of circumstances and to seek a deficiency  
 4 judgment. Discovery will be needed for all issues related to Plaintiff's anticipated claim for a  
 5 deficiency judgment, and is expected to take approximately 180 days from the time the first  
 6 Defendant answers the amended and supplemental complaint.

7 To facilitate such discovery, the parties have agreed to the following:

8 Plaintiff will provide a proposed amended and supplemental complaint to Defendants'  
 9 counsel by December 10, 2010, for counsel's consideration as to whether the parties can  
 10 stipulate to its filing.<sup>2</sup>

11 Defendants' counsel shall have until December 17, 2010 to either stipulate to the filing  
 12 of the amended and supplemental complaint or refuse such stipulation and require that a motion  
 13 be brought before the Court.

14 Provided a stipulation is reached, Defendant shall have until January 6, 2011 or 14 days  
 15 after the actual filing of the same, whichever is later, to answer or otherwise respond to the  
 16 Complaint in light of the holidays.

17 Regardless of whether a stipulation is reached, counsel agree that the discovery  
 18 deadlines set forth below shall be based on a response deadline of January 6, 2010.

19 **II. INITIAL DISCLOSURES [Rule 26(f)(3)(A)]**

20 The parties agree that no changes should be made to the form or requirement for  
 21 disclosures under FRCP 26(a), but that the timing of such disclosures shall be made on or before  
 22 January 20, 2011. The parties' respective disclosures will identify a list of potential witnesses,  
 23 documents or categories of documents available for inspection, and categories of damages.

24 A. Discovery Cut-Off (LR 26-1(e)(1): July 5, 2011

26  
 27 <sup>2</sup> The stipulation or motion necessary to file Plaintiff's amended and supplemental  
 28 complaint will also seek to substitute the real party in interest as Plaintiff, as the currently named  
 Plaintiff transferred all of its rights title and interest in the subject loan to RES-NV Clark, LLC,  
 its wholly owned subsidiary.

1           **III. DISCLOSURE OR DISCOVERY OF ELECTRONICALLY-STORED**  
2           **INFORMATION [Rule 26(f)(3)(C)]**

3           The parties are unaware of any issues regarding the disclosure or discovery of  
4           electronically-stored information at this time.

5           **IV. OTHER MATTERS**

6           A.     Claims of privilege or protection [Rule 26(f)(3)(D)]

7           The parties are unaware of any issues requiring a protective order at this time.

8           B.     Amending pleadings and adding parties [LR 26-1(e)(2)]:   April 6, 2011

9           C.     Expert disclosures [LR 26-1(e)(3)]

10           1.     Initial Expert Disclosures:   May 6, 2011

11           2.     Rebuttal Expert Disclosures: June 6, 2011

12           D.     Dispositive Motions [LR 26-1(e)(4)]:           August 4, 2011

13           E.     Joint Pre-Trial Order [LR 26-1(e)(5)]:           September 2, 2011.   In the event  
14           dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until  
15           thirty (30) days after decision of the dispositive motions or further order of the court.

16           DATED this 3rd day of December 2010.

17           SHAWN A MANGANO, LTD

18           LIONEL SAWYER & COLLINS

19           /s/ Timothy R. Mulliner  
20           Timothy R. Mulliner, NV Bar No. 10692  
21           300 South 4<sup>th</sup> St., Ste. 1700  
22           Las Vegas, NV 89101  
23           Attorneys for Plaintiff

19           /s/ Shawn A. Mangano  
20           Shawn A. Mangano, NV Bar No. 6730  
21           9960 W. Cheyenne Ave., Ste. 170  
22           Las Vegas, NV 89129  
23           Attorneys for Kelly A. Musler

24           **IT IS SO ORDERED**

25           Dated: December 16, 2010.

*LLewis*

26           

---

27           UNITED STATES MAGISTRATE JUDGE